


Chairman Cropp,
at the request of the Mayor

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Chairman Cropp, at the request of the Mayor, introduced the following bill, which was referred to the Committee on _____.

To establish a streamlined approval process for various economic assistance programs; to improve the manner in which revenue bonds are issued pursuant to Section 490 of the Home Rule Act; to repeal the existing Tax Increment Financing Act and establish a more comprehensive and improved Tax Increment Financing Program; to establish economic development incentives in the form of Payments In Lieu of Taxes and the formation of Special Assessment Districts; to amend Title 47 of the D.C. Official Code to provide for the award of certain development and employment incentives to Qualified Businesses.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "District of Columbia Neighborhood Economic Development and Investment Amendment Act of 2003".

Sec. 2. The Council of the District of Columbia finds that:

(1) It is the policy of the District to foster increased industrial, commercial and residential development, and to promote the health, safety and general welfare of the citizens of the District, and to help expand the tax base through the use of loans, the abatement or

1 forgiveness of District taxes, the exemption from District real property taxes, the negotiation of
2 payments in lieu of District real property taxes, the award of grants, and the provision of other
3 direct and indirect forms of economic assistance.

4 (2) By providing economic assistance, the District can leverage its limited financial
5 resources to more efficiently and effectively assist in financing the costs of infrastructure
6 improvements that are essential to the development or redevelopment of certain priority areas.

7 (3) It is essential to amend certain legislation that authorizes the award of tax credits
8 and tax increment financing to ensure that these incentives are employed in a more expeditious
9 and cost-effective manner.

10 (4) Enactment of this legislation will provide an appropriate range of options that will
11 enable the District to more aggressively pursue and maximize economic development,
12 employment, and business opportunities within the District.

13 (5) Enactment of this legislation will provide a means to defray the costs of
14 enhancing the economic value, public enjoyment, and access to the Anacostia waterfront and
15 other underdeveloped areas of the District, and will help to attract and retain businesses,
16 stimulate the development of commercial, residential, educational, recreational, and cultural
17 projects, increase employment, promote the expansion of trade, tourism and other industries, and
18 contribute to community betterment.

19 Sec. 3. Definitions.

20 For the purposes of this act, the term:

21 (1) “Authorized Delegate” means the CFO, the Treasurer, the Deputy Mayor for
22 Planning and Economic Development, or any officer or employee of the Executive Office of the

1 Mayor to whom the Mayor has delegated or to whom the foregoing have subdelegated any of the
2 Mayor's functions under this act.

3 (2) "Available real property tax revenues" means the revenues resulting from the
4 imposition of the tax provided for in Chapter 8 of Title 47, including any penalties and interest
5 charges, and payments in lieu of real property taxes, exclusive of the special tax provided for in
6 section 481 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat.
7 774; D.C. Official Code § 1-204.81), pledged to the payment of general obligation indebtedness
8 of the District.

9 (3) "Available sales tax revenues" means the revenues resulting from the imposition
10 of the tax imposed pursuant to Chapter 20 of Title 47, including any penalties and interest
11 charges, exclusive of the portion thereof required to be deposited in the Washington Convention
12 Center Authority Fund established pursuant to The Washington Convention Center Authority
13 Act of 1994, effective September 28, 1994 (D.C. Law 10-188; D.C. Official Code §10-1202.08).

14 (4) "Bonds" means any bonds, notes, or other instruments issued by the District
15 pursuant to section 490 of the District of Columbia Home Rule Act, (D.C. Official Code §1-
16 204.90) and secured by tax increment revenues, PILOT payments, or special assessment
17 revenues.

18 (5) "CFO" means the Chief Financial Officer of the District.

19 (6) "Council" means the Council of the District.

20 (7) "Current assessed value" means for any tax year, the assessed value of all taxable
21 real property within a TIF area as then recorded on the land records of the District as of January
22 preceding the tax year.

1 (8) “Development” means the acquisition, purchase, construction, reconstruction,
2 improvement, renovation, rehabilitation, restoration, remodeling, repair, remediation, expansion,
3 extension and the furnishing and equipping of eligible projects, including any pre-development
4 activities.

5 (9) “Development costs” means those costs permitted to be financed, refinanced or
6 reimbursed pursuant to section 490(a) of the District of Columbia Home Rule Act (D.C. Official
7 Code §1-204.90) or any other costs not financed with bonds that are authorized to be financed
8 by the Mayor with the approval of Council pursuant to the provisions of this act.

9 (10) “District” means the District of Columbia.

10 (11) “Eligible project” means the financing, refinancing, or the reimbursement of
11 development costs authorized pursuant to section 490 of the District of Columbia Home Rule
12 Act (D.C. Official Code §1-204.90) or, with respect to facilities not financed with the proceeds
13 of bonds, any other development costs.

14 (12) “Initial assessed value” means the assessed value of all taxable real property
15 within a TIF area on the date determined by the Council; provided, that the date shall not be
16 earlier than the date on which the Council approves such TIF area.

17 (13) “Initial sales tax amount” means the amount of available sales tax revenues from
18 locations within a TIF area in the fiscal year determined by the Council; provided, that the fiscal
19 year shall not be earlier than the fiscal year preceding the fiscal year in which the Council
20 approves such TIF area.

21 (14) “Mayor” means the Mayor of the District.

22 (15) “Payment in lieu of taxes “ or “PILOT” means payments made with respect to a
23 PILOT Parcel by the owner(s) thereof for a PILOT Period in lieu of real property taxes in an

1 amount determined through negotiations with the Mayor (including interest and penalties in the
2 same amount that would be imposed on delinquent real property tax payments).

3 (16) "PILOT Parcels" means the tax lots located in the District designated by the
4 Mayor and approved by resolution of the Council as exempt for a PILOT Period from the
5 payment of real property taxes required by Chapter 8 of the District of Columbia Official Code
6 in accordance with the provisions of this act.

7 (17) "PILOT Period" means the period commencing with the execution of an
8 agreement referred to in section 14 of this act with respect to a PILOT Parcel and ending (i) if
9 bonds are issued to fund an eligible project, after the payment in full of all bonds outstanding or
10 (ii) if bonds are not issued to fund an eligible project, such date as determined by the Mayor
11 provided that any direct funding of an eligible project has been completed.

12 (18) "Public Infrastructure Improvements" means, with respect to special assessment
13 districts, any infrastructure improvements that are either owned by or dedicated to the District or
14 any other governmental entity and which are located either (i) within the special assessment
15 district or (ii) outside the special assessment district if the infrastructure improvements are
16 reasonably related to the infrastructure improvements located within the special assessment
17 district or to the development proposed in such district.

18 (19) "Real Property Tax Increment Revenues" means the portion of the available real
19 property tax revenues allocable to one or more tax allocation funds pursuant to section 11.

20 (20) "Sales Tax Increment Revenues" means the portion of the available sales tax
21 revenues allocable to one or more tax allocation funds pursuant to section 11.

22 (21) "Special PILOT Fund" shall mean the Special PILOT Fund and any subaccounts
23 created pursuant to section 14.

(22) "TIF" means tax increment financing.

(23) "TIF Bonds" means bonds issued pursuant to this act to finance a TIF project.

(24) "TIF Project" means an eligible project that is financed in whole or in part with TIF bonds or financed directly with tax increment revenues.

Sec. 4. (a) Economic assistance may be provided pursuant to sections 11, 14, or 17 of this act if the Mayor has determined that providing such economic assistance will result in:

(1) a net increase in income taxes, franchise taxes, sales taxes, use taxes and other taxes that otherwise would not have occurred if the economic assistance was not provided;

or

(2) financial, economic and social benefits to the District that will promote the health, safety and general welfare of the citizens of the District and stimulate the development, and expansion of business, commerce, housing, the arts, and tourism.

(b) Upon the making of the determination referenced in subsection (a) above, the Mayor shall transmit to the Council a proposed resolution to approve the form and the amount of economic assistance with respect to (i) the proposed eligible project or (ii) any other purposes authorized by the provisions of this act. Such resolution will describe in detail the specific provisions of such economic assistance. In addition to the resolution, the Mayor will submit to the Council information supporting the Mayor's determination including findings of the CFO that the proposed eligible project is not inconsistent with the financial plan and budget for the fiscal year of the District, and does not exceed the limitations of subsection (c) below. The Council may approve or disapprove the proposed resolution within 45 calendar days. In the event that the Council fails to act within that time period, the proposed resolution shall be deemed approved by the Council.

1 pursuant to this act. Such bonds may be secured by (i) tax increment revenues, (ii) PILOT
2 payments or (iii) special assessment revenues in amounts not to exceed the respective limits
3 provided for in this act. The issuance of bonds, including any refunding bonds in specified
4 aggregate principal amounts shall be approved by resolution of the Council.

5 Sec. 6. Details of Bonds.

6 (a) The Mayor is authorized to take any action necessary or appropriate in accordance
7 with this act in connection with the preparation, execution, issuance, sale, delivery, and payment
8 of bonds issued pursuant to this act, including, but not limited to, determinations of:

9 (1) The final form, content, designation, and terms of the bonds, including a
10 determination that such bonds may be issued in certificate or book entry form;

11 (2) The principal amount of the bonds to be issued and denominations of the
12 bonds;

13 (3) The rate or rates of interest or the method for determining the rate or rates
14 of interest on the bonds;

15 (4) The date or dates of issuance, sale, and delivery of, and the payment of
16 interest on the bonds, and the maturity date or dates of such bonds;

17 (5) The terms under which the bonds may be paid, optionally or mandatorily
18 redeemed, accelerated, tendered, called, or put for redemption, repurchase, or remarketing before
19 their respective stated maturities;

20 (6) Provisions for the registration, transfer, and exchange of each series of
21 bonds and the replacement of mutilated, lost, stolen, or destroyed bonds;

22 (7) The creation of any reserve fund, sinking fund, or other fund with respect
23 to the bonds;

1 (8) The time and place of payment of the bonds;

2 (9) Procedures for monitoring the use of the proceeds received from the sale
3 of the bonds to ensure that they are properly applied to their respective eligible project and used
4 to accomplish the purposes of this act; and

5 (10) Actions necessary to qualify the bonds under blue sky laws of any
6 jurisdiction where the bonds are marketed.

7 (b) The bonds shall contain a legend, which shall provide that the bonds shall be
8 special obligations of the District, shall be without recourse to the District, shall not be a pledge
9 of, and shall not involve, the faith and credit or the taxing power of the District (other than the
10 tax increment revenues, the PILOT payments or the special assessment revenues, as applicable),
11 shall not constitute a debt of the District, and shall not constitute lending of the public credit for
12 private undertakings as prohibited in section 602(a)(2) of the District of Columbia Home Rule
13 Act (D.C. Official Code §1-206.02(a)(2)).

14 (c) The bonds shall be executed in the name of the District and on its behalf by the
15 manual or facsimile signature of the Mayor. The Mayor's execution and delivery of the bonds
16 shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the
17 final form and content of the bonds.

18 (d) The official seal of the District, or facsimile of it, shall be impressed, printed, or
19 otherwise reproduced on the bonds.

20 (e) The bonds may be issued at any time or from time to time in 1 or more issues and
21 in 1 of more series.

22 Sec 7. Security for Bonds.

1 (a) A series of bonds may be secured by a trust agreement or trust indenture between
2 the District and a corporate trustee having trust powers, or secured by a loan agreement or other
3 instrument giving power to a corporate trustee by means of which the District may do the
4 following:

5 (1) Make and enter into any and all covenants and agreements with the trustee
6 or the holders of the bonds that the District may determine to be necessary or desirable including,
7 without limitation, covenants and agreements as to:

8 (A) The application, investment, deposit, use and disposition of the
9 proceeds of bonds and the other monies, securities, and property of the District;

10 (B) The assignment by the District of its rights in any agreement;

11 (C) Terms and conditions upon which additional bonds of the District
12 may be issued;

13 (D) Providing for the appointment of a trustee to act on behalf of
14 bondholders and abrogating or limiting the rights of the bondholders to appoint a trustee; and

15 (E) Vesting in a trustee for the benefit of the holders of bonds, or in the
16 bondholders directly, such rights and remedies as the District shall determine;

17 (2) Pledge, mortgage or assign monies, agreements, property or other assets of
18 the District, either presently in hand or to be received in the future, or both;

19 (3) Provide for bond insurance and letters of credit, or otherwise enhance the
20 credit of and security for the payment of its bonds; and

21 (4) Provide for any other matters of like or different character that in any way
22 affect the security for or payment of the bonds.

1 (b) Bonds issued pursuant to this act are declared to be issued for essential public and
2 governmental purposes. The bonds and the interest thereon and the income therefrom, and all
3 monies pledged or available to pay or secure the payment of the bonds shall at all times be
4 exempt from taxation by the District except for estate, inheritance, and gift taxes.

5 (c) The District does hereby pledge to and covenant and agree with the holders of any
6 bonds issued pursuant to this subchapter that, subject to the provisions of the financing
7 documents, the District will not limit or alter the revenues pledged to secure the bonds issued
8 pursuant to this act or the basis on which such revenues are collected or allocated; will not impair
9 the contractual obligations of the District to fulfill the terms of any agreement made with the
10 holders of the bonds, will not in any way impair the rights or remedies of the holders, and will
11 not modify in any way the exemptions from taxation provided for in this act, until the bonds,
12 together with interest thereon, with interest on any unpaid installment of interest and all costs and
13 expenses in connection with any suit, action or proceeding by or on behalf of the holders, are
14 fully met and discharged. This pledge and agreement of the District may be included as part of
15 the contract with the holders of any of its bonds. This subsection shall constitute a contract
16 between the District and the holders of the bonds authorized by this act. To the extent that any
17 acts or resolutions of the Council may be in conflict with this act, this act shall be controlling.

18 (d) It is the intention of the Council that consistent with section 490(a)(4)(B) of the
19 District of Columbia Home Rule Act (D.C. Official Code §1-204.90) and, notwithstanding
20 Article 9 of Title 28 of the District of Columbia Official Code, a pledge made and security
21 interest created in respect of any bonds or pursuant to any related financing document shall be
22 valid, binding and perfected from the time such security interest is created, with or without
23 physical delivery of any funds or any property and with or without any further action; and that

1 the lien of the pledge shall be valid, binding, and perfected as against all parties having any claim
2 of any kind in tort, contract, or otherwise against the District whether or not such party has
3 notice. Such security interest shall be valid, binding and perfected whether or not any statement,
4 document, or instrument relating to such security interest is recorded or filed.

5 Sec. 8. Default.

6 If there shall be a default in the payment of the principal of or interest on any bonds of a series
7 after the principal or interest shall become due and payable, whether at maturity or upon call for
8 redemption, or if the District government shall fail or refuse to carry out and perform the terms
9 of any agreement with the holders of any of the bonds, then the holders of the bonds, or the
10 trustee appointed to act on behalf of the holders, may, subject to the provisions of the financing
11 documents, do the following:

12 (a) By action, writ, or other proceeding enforce all rights of the holders of the bonds,
13 including the right to require the District government to carry out and perform the terms of any
14 agreement with the holders of the bonds or its duties under this act.

15 (b) By action, require the District government to account as if it were the trustee of an
16 express trust;

17 (c) By action, petition to enjoin any acts or things that may be unlawful or in
18 violation of the rights of the holders of the bonds; and

19 (d) Declare all the bonds due and payable, whether or not in advance of maturity and,
20 if all the defaults be made good, annul the declaration and its consequences.

21 Sec . 9. Liability.

22 (a) Neither the members of the Council nor any person executing bonds issued
23 pursuant to this act shall be liable personally on the bonds by reason of the issuance thereof.

1 (b) Notwithstanding any other provision of this act, bonds issued pursuant to this act
2 are not general obligations of the District and shall not be in any way a debt or liability of the
3 District within the meaning of any debt or other limit prescribed by law. Neither the full faith
4 and credit nor the general taxing power of the District (other than the tax increment revenues, the
5 PILOT payments or the special assessment revenues) may be pledged to secure the payment of
6 any bonds issued pursuant to this act.

7 Sec.10. Creation of TIF Area.

8 (a) The Mayor may recommend and the Council by resolution may approve the
9 designation of one or more TIF areas. The Council approval resolution may authorize the Mayor
10 to reduce or expand a TIF area provided that such modification will not adversely affect the
11 security of the holders of any TIF bonds outstanding that relate to such TIF area.

12 (b) If the Mayor determines that a TIF area is no longer necessary, the Mayor may
13 abolish the TIF area, provided that so long as any TIF bonds are outstanding with respect to the
14 TIF area, or the direct funding of a TIF project has not been completed, the Mayor shall take no
15 action to abolish such area or that otherwise will adversely affect the security of the holders of
16 the TIF bonds.

17 Sec. 11. Allocation of tax increments.

18 (a) Once a TIF area is established, the CFO shall promptly determine and certify the
19 initial assessed value of all taxable real property within the TIF area, and the CFO shall
20 determine and certify the initial sales tax amount for the TIF area.

21 (b) Within 60 days after the approval of a TIF area by the Council, the CFO shall
22 provide for the allocation of real property tax increment revenues or sales tax increment
23 revenues, or both, within each TIF area. The CFO shall establish one or more separate tax

1 increment allocation accounts within the General Fund for the deposit and application of real
2 property tax increment revenues and sales tax increment revenues from each tax increment area,
3 provided that the CFO shall not make deposits of real property tax increment revenues and sales
4 tax increment revenues into the separate tax increment allocation account until a TIF project has
5 been approved by the Council. Monies shall be transferred from such accounts at the times and
6 in the amounts required pursuant to financing documents relating to any TIF bonds or pursuant
7 to any funding documents relating to a TIF project to be directly funded to any fund or account
8 established under such documents for the purpose specified in those documents or may, as
9 provided in such documents, be transferred directly from the Collector to such funds and
10 accounts. Pursuant to subsections (c), (d), and (e) of this section, monies held or to be held in a
11 tax allocation account or such funds and accounts established under the documents referenced
12 above may be used to (i) pay development costs associated with TIF projects in the applicable
13 area, (ii) pay debt service on TIF bonds or (iii) pay other costs referenced in subsection (e) of this
14 section consistent with the applicable financing documents. Monies in a tax allocation account
15 or in any fund or account established under any financing documents may be pledged as security
16 for the payment of debt service on TIF bonds and to related purposes referred to in subsection (e)
17 of this section.

18 (c) Notwithstanding any other law, after a TIF project has been approved by the
19 Council, available real property tax revenues from so much of that portion of taxes levied within
20 a TIF area that are attributable to the difference between the current assessed value and the initial
21 assessed value of all taxable real property within the TIF area as have been approved for such
22 allocation by resolution of the Council shall be paid to the CFO for deposit into one or more of
23 the tax increment accounts established by the CFO pursuant to subsection (b) of this section.

1 (d) Notwithstanding any other law, after a TIF project has been approved by the
2 Council, the portion of available sales tax revenues that results from the sales tax levied within a
3 TIF area, from the date of the approval of the TIF area, that are in excess of the initial sales tax
4 amount approved by Council resolution shall be paid to the CFO for deposit into one or more of
5 the tax increment accounts established by the CFO pursuant to subsection (b) of this section.

6 (e) If TIF bonds have been issued and are outstanding, the amounts, if any,
7 remaining in the tax increment accounts for a TIF area at the end of each tax year, after provision
8 for the payment of debt service on any TIF bonds, any costs of credit or liquidity enhancement
9 and other costs, fees, and expenses of administering, carrying, and paying the bonds and the
10 funds, trusts, and escrows pertaining to them, and providing for reasonably required reserves, all
11 as provided in the financing documents, shall revert to the General Fund. If no TIF bonds have
12 been issued and the monies in the tax increment accounts are being used to directly fund a TIF
13 project, the amounts, if any, remaining in the tax increment accounts for a TIF area at the end of
14 each tax year, after provisions for the funding of the development costs of the TIF project, shall
15 revert to the General Fund.

16 Sec. 12. Repeal of Prior Legislation.

17 (a) The Tax Increment Financing Authorization Act of 1998, as amended, effective
18 September 11, 1998 (D.C. Law 12-143; D.C. Official Code § 2-1217.01 *et seq.*) is hereby
19 repealed.

20 (b) Repeal of such legislation shall not adversely affect any actions taken, agreements
21 entered into, pledge of security made or TIF bonds issued prior to the effective date of this
22 legislation.

1 (c) Section 24 of the National Capital Revitalization Corporation Act of 1998,
2 effective September 11, 1998 (D.C. Law 12-144; D.C. Official Code § 2-1219.23) is repealed.

3 (d) Section 30(e) of the National Capital Revitalization Corporation Act of 1998,
4 effective September 11, 1998 (D.C. Law 12-144; D.C. Official Code § 2-1219.29) is repealed.

5 Sec. 13. Exemption from Real Property Taxes.

6 PILOT Parcels shall be exempt from the payment of real property taxes in the District required
7 by Chapter 8 of the District of Columbia Official Code as provided by this act. The exemption
8 created under this act as to a PILOT Parcel remains in effect until the termination of the
9 respective PILOT Period.

10 Sec. 14. Creation of PILOT and Special PILOT Fund; PILOT Payments.

11 (a) During the PILOT Period with respect to a PILOT Parcel, the owner(s) of such
12 PILOT Parcel shall be required to make PILOT payments.

13 (b) In accordance with District of Columbia Official Code § 47-131(b), there is
14 hereby established within the General Fund of the District a special account denominated the
15 Special PILOT Fund to which shall be credited, without regard to fiscal year limitations,
16 pursuant to an act of Congress, all PILOT payments, other than any portion of a PILOT payment
17 representing a payment in lieu of real property taxes attributable to the assessed value of such
18 PILOT Parcel at the time of approval of the PILOT and designated PILOT Parcel by the Council
19 if the PILOT Parcel was subject to the payment of real property taxes at that time, which portion
20 of such payment will be transferred to the General Fund annually and will not be available for
21 the purposes of this act. The CFO may establish subaccounts of the Special PILOT Fund for any
22 eligible project.

1 (c) Amounts in the Special PILOT Fund may either be used directly to fund, in whole
2 or in part, the capital costs of an eligible project or to secure bonds issued to fund an eligible
3 project or a combination of the two.

4 (d) In the event that bonds are issued to fund, in whole or in part, any eligible project,
5 the Special PILOT Fund or any subaccount of such Fund shall be pledged to secure the bonds
6 pursuant to the provisions of section 490 of the District of Columbia Home Rule Act (D.C.
7 Official Code §1-204.90) and be subject to the statutory lien created thereunder and under this
8 act.

9 (e) To the extent that PILOT payments are not needed to directly fund eligible
10 projects or to pay debt service on any outstanding bonds or to make any other payments required
11 by the financing documents related to the bonds, moneys in the Special PILOT Fund shall be
12 transferred to the General Fund of the District at the end of each fiscal year of the District during
13 the PILOT Period. Any moneys remaining in the Special PILOT Fund after termination of all
14 PILOT Periods shall be paid into the General Fund of the District. Moneys in the Special PILOT
15 Fund may be invested by the District in investments permitted by § 47-351.03 of the District of
16 Columbia Official Code.

17 (f) Owner(s) of the PILOT Parcel shall make the PILOT payments to the District for
18 deposit into the Special PILOT Fund at the same time and in the same manner as real property
19 taxes under Chapter 8 of Title 47 of the District of Columbia Official Code. An unpaid PILOT
20 payment shall be subject to the same penalty and interest provisions as a delinquent real property
21 tax under such Chapter 8. A lien for an unpaid PILOT payment, including penalty and interest,
22 shall attach to the real property in the same manner and with the same priority as a lien for

1 delinquent real property tax under Chapter 13A of Title 47 of the District of Columbia Official
2 Code. The unpaid PILOT payment shall be collected in accordance with such Chapter 13A.

3 (g) An agreement shall be entered into between the District and the owner(s) of each
4 PILOT Parcel reflecting the provisions with respect to the PILOT payments contained in this
5 section prior to the commencement of the PILOT Period with respect to such PILOT Parcel.

6 Sec. 15. Funding of Eligible Projects.

7 Funding for eligible projects pursuant to the provisions of this subchapter will be subject to such
8 conditions and requirements as the Mayor determines would be in the best interest of the District
9 and would further the public purposes of this act. Such conditions and requirements shall be
10 included in an agreement entered into between the District and the funding recipient prior to the
11 commitment of the use of PILOT payments or bond proceeds for such eligible projects. The
12 eligible projects to be funded shall be approved by the Council pursuant to the provisions of this
13 act.

14 Sec. 16. Creation of Special Assessment Districts.

15 The Mayor with the approval of the Council under the provisions of this act may designate an
16 area or areas by tax lot within the District as a special assessment district provided that the
17 creation of such special assessment district has been approved by the written consent of the
18 owners of two-thirds of the assessed value of the real property in the special assessment district
19 and two-thirds of the owners of real property in the special assessment district. For purposes of
20 securing such consent, multiple owners of a single parcel shall be treated as a single owner and a
21 single owner of multiple parcels shall be treated as a single owner.

22 Sec. 17. Levy of Special Assessments.

1 (a) Prior to bonds being issued to finance the public infrastructure improvements, the
2 Council shall, by resolution transmitted by the Mayor, provide for the levy of a special
3 assessment at a rate or amount designed to (i) provide adequate revenues to pay the principal of,
4 interest on, and redemption premium, if any, on such bonds, (ii) replenish any debt service
5 reserve fund that may secure the bonds, (iii) provide for the payment of the ongoing expenses
6 related to the issuance of the bonds or the maintenance of the security for the bonds, and (iv)
7 provide for the payment of any expenses related to the maintenance of the public infrastructure
8 improvements.

9 (b) The allocation of the payment of the special assessments among property owners
10 within a special assessment district may be based on any of the following methods to cover the
11 costs of the public infrastructure improvements:

12 (1) in accordance with the assessed value of the real property as determined
13 pursuant to the provisions of Chapter 8 of Title 47 the District of Columbia Official Code;

14 (2) equally per front foot, lot, parcel, dwelling unit, or square foot; or

15 (3) in any other reasonable manner that results in fairly allocating the costs of
16 the Public Infrastructure Improvements among the parcels of real property in the special
17 assessment district.

18 (c) The Council's resolution transmitted by the Mayor also may provide for:

19 (1) the maximum amount to be assessed with respect to any parcel of property
20 located within the special assessment district;

21 (2) a tax year or other date after which no further special assessments under
22 this section may be levied or collected on a parcel;

1 (3) the circumstances under which the special assessments levied against any
2 parcel may be increased, if at all, as a consequence of delinquency or default by the owner of that
3 parcel or any other parcel within the special assessment district; and

4 (4) the procedures allowing for the prepayment of special assessments.

5 (d) Special assessments levied under this section shall be collected at the same time
6 and in the same manner as real property taxes under Chapter 8 of Title 47 of the District of
7 Columbia Official Code. An unpaid special assessment shall be subject to the same penalty and
8 interest provisions as a delinquent real property tax under such Chapter 8. A lien for an unpaid
9 special assessment, including penalty and interest, shall attach to the real property in the same
10 manner and with the same priority as a lien for delinquent real property tax under Chapter 13A
11 of Title 47 of the District of Columbia Official Code. The unpaid special assessment shall be
12 collected in accordance with such Chapter 13A.

13 (e) The resolution providing for the levy of the special assessments shall provide for
14 the creation of a special fund for each special assessment district into which the special
15 assessment revenues related to such district shall be paid. The special fund shall be pledged to
16 secure bonds issued to finance the public infrastructure improvements with respect to a special
17 assessment district as provided in section 490 of the District of Columbia Home Rule Act (D.C.
18 Official Code §1-204.90) and this act. Moneys in the special fund may be invested by the
19 District in investments permitted by § 47-351.03 of the District of Columbia Official Code.

20 (f) Any moneys remaining in a special fund on the date of termination of the related
21 special assessment district shall be paid into the General Fund of the District.

22 Sec. 18. Filing of Challenges and Protests.

1 (a) The right of an owner of a tax lot in a special assessment district to challenge the
2 creation of such district and the levy of the special assessment as provided for in the resolution
3 adopted by the Council shall terminate thirty (30) days after the effective date of such resolution.

4 (b) The owner of a tax lot subject to a special assessment under section 17 may
5 protest the amount of a special assessment levied by filing a protest with the Board of Real
6 Property Assessments and Appeals, on a form prescribed by the Board, within 30 days after
7 notice of assessment. The protest shall be reviewed by the Board in accordance with D.C.
8 Official Code § 47-825.01. Each decision of the Board shall be maintained by the Board and
9 shall be made available for examination and photocopying at cost to any requestor.

10 Sec. 19. Disclosure of Special Assessment Districts.

11 Prior to any bonds being issued relating to a special assessment district, the Mayor shall record
12 among the land records of the District a declaration encumbering all real property located in the
13 special assessment district except for property exempt by law and designating that property as
14 subject to a special assessment district. The declaration shall terminate when the Mayor records
15 a release stating that all bonds relating to such district have been fully repaid or retired.

16 Any real estate contract entered into in connection with the sale of real property located within a
17 special assessment district shall include information therein regarding the special assessments
18 that the purchaser will become liable for as owner of such real property.

19 Sec. 20. Termination of Special Assessment Districts.

20 A special assessment district created pursuant to this section shall terminate after the payment in
21 full of any bonds issued with respect to such district.

22 Sec. 21. Title 47 of the District of Columbia Code is amended as follows:

1
2 (a) Section 47-340.21 is amended to read as follows:

3 “§ 47-340.21. Deposit of proceeds.

4 “Fees authorized under § 47-340.20 and the earnings thereon shall be deposited in an
5 account denominated the District of Columbia Neighborhood Economic Development Fund (the
6 “Fund”), which shall be a sub-account of the account established under § 47-131(c)(4).”.

7 (b) Section 47-340.22 is amended to read as follows:

8 “§ 47-340.22. Allocation of funds.

9 “Monies credited to the Fund established under § 47-340.21 shall be allocated annually
10 to the Office of the Deputy Mayor for Planning and Economic Development in an aggregate
11 amount that is equal to the fees paid and the earnings that have accrued during the immediately
12 preceding fiscal year. Monies remaining in the Fund at the end of any fiscal year shall not revert
13 to the general fund, but shall remain in the Fund.”.

14 (c) Section 47-340.23 is amended to read as follows:

15 “§ 47-340.23. Use of funds allocated.

16 “Fund monies allocated to the Office of the Deputy Mayor for Planning and Economic
17 Development as provided in § 47-340.22 may be used to pay the costs of operating and
18 administering economic development programs, including the provision of credit support, loans,
19 grants, contracts, and the implementation of other initiatives that are consistent with and in
20 furtherance of the purposes of the Act. The Mayor shall report to the Council the details of how
21 such monies are used in accordance with this section.”.

22 (d) The table of contents for Chapter 8 is amended by adding the section designation
23 "47-811.04. Qualified business real property tax abatement for certain commercial properties."

1 after the section designation "47-811.03. Real property tax abatement for certain commercial
2 properties.".

3 (e) A new section 47-811.04 is added to read as follows:

4 "§ 47-811.04. Qualified business real property tax abatement for certain commercial
5 properties.

6 "(a) Subject to approval by Council resolution, the Mayor is authorized to abate for up
7 to a 5-year period the real property tax liability of any qualified business. If the Council does not
8 disapprove a proposed resolution within 45 calendar days of introduction under section 4(b) of
9 this act, the proposed resolution shall be deemed approved.

10 "(b) The abatement authorized under this section shall terminate immediately on the
11 date the taxpayer ceases to be a qualified business.

12 "(c) A qualified business shall claim the abatement under this section by submitting to
13 the CFO a written certification that it has met the eligibility requirements of this section during
14 the tax year in which the abatement is granted.".

15 (f) The table of contents for Chapter 18 is amended as follows:

16 (1) Add the section designation "47-1805.06. Same--Certification by qualified
17 business." after the section designation "47-1805.05. Same--Certification by Qualified High
18 Technology Company."

19 (2) Add a new Subchapter XVIII to read as follows:

20 "*Subchapter XVIII. Qualified businesses.*"

21 "§ 47-1818.01. Definitions.

22 "47-1818.02. Tax credit to qualified businesses for wages to qualified employees.

23 "47-1818.03. Forgiveness of Recordation Tax Liability.

1 "47-1818.04. Annual Filing and Continuing Compliance.

2 "47-1818.05. Severability.”.

3 (g) A new section 47-1805.06 is added to read as follows:

4 "§ 47-1805.06. Same--Certification by qualified business.

5 “(a) Certification. Except as otherwise provided herein, to claim a credit or other
6 benefit under this title as a qualified business, a taxpayer shall attach to its applicable annual tax
7 filing an original affidavit certifying that: (1) it is a qualified business, and (2) it is not now
8 receiving and does not have pending a claim for employment tax credits under any other
9 provision of District law that would duplicate or supplement the current claim authorized under
10 this section.

11 “(b) A taxpayer that certifies that it is a qualified business shall be subject to audit, to
12 the same extent as any other taxpayer, to verify that the taxpayer qualified as a qualified
13 business.”.

14 (h) A new section 47-1818.01 is added to read as follows:

15 “§ 47-1818.01. Definitions.

16 “For the purposes of this chapter, the term:

17 “(1) “Bonds” means any bonds, notes, or other instruments issued by the
18 District pursuant to section 490 of the District of Columbia Home Rule Act, approved December
19 24, 1973 (87 Stat. 774; D.C. Official Code §1-204.90) and secured by tax increment revenues,
20 PILOT payments, or special assessment revenues.

21 “(2) “Eligible project” means the financing, refinancing, or the reimbursement
22 of development costs authorized pursuant to section 490 of the District of Columbia Home Rule

Act (D.C. Official Code § 1-204.90) or, with respect to facilities not financed with the proceeds of bonds, any other development costs.

“(3) “LSDBE Act” means the Equal Opportunity for Local, Small and Disadvantaged Business Enterprises Act of 1998, effective April 27, 1999 (D.C. Law 12-268; D.C. Official Code § 2-217.01 *et seq.*).

“(4) “Qualified business” means any legal entity whose retention or expansion within the District or whose relocation to the District the Mayor’s determines will help to retain or increase employment opportunities and expand the tax base, including, but not limited to (i) businesses certified pursuant to the LSBDE Act, (ii) an enterprise zone business, as defined in Sections 1397C and 1397D of the Internal Revenue Code of 1986, as amended, or (iii) any business that maintains a base of operations in the District and meets each of the following requirements:

“(A) At least 50% of its total gross income is derived from the active conduct of business in the District,

“(B) A substantial portion of the tangible property used in the active conduct of the business (whether owned or leased) is within the District,

“(C) A substantial portion of the business’ intangible property is used in the active conduct of its business within the District,

“(D) A substantial portion of the services performed for the business by its employees is performed in the District; and

“(E) At least 35% of its employees are individuals subject to the District’s personal income tax.

1 “(5) “Qualified Employee” means a person subject to the District’s personal
2 income tax who is not currently employed in a facility owned or operated by a qualified
3 employer, and is hired to fill a position of indefinite duration consisting of a minimum 35 hours
4 per week for not less than 50 weeks per year, which position is created by a qualified employer
5 as a result of the establishment or expansion of its business facilities in the District.

6 “(6) “Qualified Employer” means a taxpayer in good standing with the District
7 who meets the requirements of this subchapter and who is not delinquent in payment of any tax
8 obligation, fee, or other indebtedness to the District.

9 “(7) “Tax Credit” means the dollar value of a credit against a taxpayer’s
10 aggregate annual liability for payment to the District of franchise, personal property and income
11 taxes as determined by application of the provisions of this subchapter.

12 “(8) “Tax Year” means any calendar year or portions of calendar years in
13 which District taxes are due and payable”.

14 (i) A new section 47-1818.02 is added to read as follows:

15 "§ 47-1818.02. Tax credit to qualified businesses for wages to qualified employees.

16 “(a) Subject to the limitations of paragraphs (b), (c), (d), and (e) of this section, for
17 taxable years beginning after December 31, 2001, a taxpayer that hires ten (10) or more qualified
18 employers and otherwise meets the requirements of this section and D.C. Official Code §§ 47-
19 1805.06 and 47-1818.04 shall be allowed a credit against the tax imposed by § 47-1807.02 of up
20 to \$3,000.00 for each qualified employee hired by the taxpayer.

21 “(b) The aggregate amount of employment tax credits earned by a taxpayer under this
22 section shall be determined as of the last calendar day of the first year in which the award is
23 sought. Credit amounts allowed under this section for any tax year shall not exceed 50% of the

wages paid to such qualified employee during the tax year in which an application is filed pursuant to D.C. Official Code § 47-1805.06. The maximum annual employment tax credit allowed for a taxpayer shall not exceed the total of franchise, personal property, and income taxes imposed on the taxpayer during the tax year in which the credit is sought.

“(c) Allocations of earned employment tax credits shall be made over 36 consecutive months, commencing with the respective month in which each qualified employee is hired and shall be allowed ratably for each qualified employee in accordance with the number of months such qualified employee is employed at the taxpayer’s District facility during the tax year for which the tax credit is sought. The credit allowance shall terminate the earlier of: (1) the third anniversary of the date of its commencement; (2) the date that the taxpayer fails to meet the respective annual certification of compliance requirements of D.C. Official Code § 47-1805.06; and (3) the date of the filing of a petition in bankruptcy in connection with the claimant’s business.

“(d) Employment tax credits that are allowed but unusable for the tax year in which they are earned may be carried forward for the 5 succeeding tax years, but no credits shall be carried back to a prior tax year.

“(e) Tax benefits under this section and D.C. Official Code §§ 47-811.04, 47-1818.02, and 47-2005(33) shall not be allowed if:

“(1) The claimant pays the qualified employee less than the greater of the legal minimum wage and the wage the taxpayer pays other employees in similar jobs;

“(2) The claimant accords the qualified employee fewer benefits or rights than it accords other employees in similar jobs; or

1 “(3) The employee is a member of the board of directors of the taxpayer;
2 directly or indirectly owns 5% or more of its stock; or is related to a member of the board of
3 directors or owner of 5% or more of its stock as a spouse or as a relative within the meaning of
4 "dependent" in Sec. 152 of the Internal Revenue Code of 1986, as amended, without regard to
5 income.”.

6 (j) A new section 47-1818.03. is added to read as follows:

7 "§ 47-1818.03. Forgiveness of Recordation Tax Liability.

8 “(a) Subject to approval by Council resolution, the Mayor is authorized to grant any
9 qualified business a waiver of the obligation to pay recordation taxes. If the Council does not
10 disapprove a proposed resolution within 45 calendar days of its introduction under section 4(b)
11 of this act, the proposed resolution shall be deemed approved.

12 “(b) Notwithstanding anything to the contrary contained in this subchapter XVIII, the
13 waiver of recordation tax liability and real property tax abatement provided for in D.C. Official
14 Code § 47-1811.04 shall not be granted if the aggregate value of such waiver or abatement
15 exceeds \$25,000,000 within any two year period commencing with the effective date of this
16 act.”.

17 (k) A new section 47-1818.04 is added to read as follows:

18 "§ 47-1818.04. Annual Filing and Continuing Compliance.

19 “(a) A claim for tax benefits under D.C. Official Code §§ 47-811.04 and 47-1818.02
20 is made by completing a worksheet and affidavit appended to the taxpayer’s annual filing with
21 the CFO

22 “(b) Tax filings made pursuant to this subchapter shall be subject to audit.”.

23 (l) A new section 47-1818.05 is added to read as follows:

1 "§ 47-1818.05. Severability.

2 “If any provision of this subchapter relating to a qualified business is held to be invalid:

3 “(1) Any tax abatement, credit, or other benefit provided under this subchapter
4 shall not be increased, and the amount of tax imposed under this subchapter shall not be
5 decreased, as a result of such invalidity; and

6 “(2) A qualified business shall not be required to pay additional taxes under
7 this subchapter to the District of Columbia until any proceedings to contest such taxes become
8 final.”.

9 (m) Section 47-2005 of the District of Columbia Code is amended as follows:

10 (1) Paragraph (32) is amended by striking the period at the end of the
11 paragraph and inserting the phrase “; and” in its place.

12 (2) A new paragraph (33) is added to read as follows:

13 “(33) Subject to Council approval by resolution, the Mayor may exempt from
14 taxation sales of tangible property that is used to construct, equip, or furnish facilities, including
15 eligible projects owned, used, or occupied by a qualified business. If the Council does not
16 disapprove a proposed resolution within 45 calendar days of its introduction under this
17 subchapter, the proposed resolution shall be deemed approved.”.

18 (n) The table of contents for Chapter 42 is amended by adding the section designation
19 “47-4219. Good Faith Compliance.” after the section designation “47-4218. Penalties for
20 Qualified High Technology Company.”.

21 (o) A new section 47-4219 is added to read as follows:

22 “47-4219. Good Faith Compliance.

1 “A taxpayer certifying in good faith that it is a qualified business shall not be subject to
2 any penalties under this subchapter if it is determined that the taxpayer does not qualify as a
3 qualified business.”.

4 Sec.22. Promulgation of Rules and Procedures.

5 The Mayor shall promulgate rules and regulations pursuant to the District of Columbia
6 Administrative Procedures Act, D.C. Code 2-505, setting forth the criteria and procedures
7 necessary to implement the provisions of this act.

8 Sec. 23. Delegation of Authority.

9 The Mayor may delegate to an Authorized Delegate the performance of any of the Mayor’s
10 duties and responsibilities under this act.

11 Sec. 24. Conforming Amendments.

12 (a) Section 2(a) of the National Capital Revitalization Corporation Act of
13 1998, effective September 11, 1998 (D.C. Law 12-144; D.C. Official Code § 2-1219.01(1)) is
14 amended by striking the phrase “including any development sponsor as defined in § 2-
15 1217.01(14

16 (b) Section 2(b)(2)(A) of the Stable and Reliable Sources of Revenue for
17 WMATA Act of 1982, effective April 30, 1982 (D.C. Law 4-103; D.C. Official Code § 9-
18 1111.15(1) (b)(2)(A)(ii)) is amended by striking the phrase “§ 2-1217.01(27)”, and inserting the
19 phrase “§ 3 of the District of Columbia Neighborhood Economic Development and Investment
20 Amendment Act of 2003”.

21 Sec. 25. This act shall be liberally constructed to affect the purposes stated herein.

22 Sec. 26. The Council adopts the fiscal impact statement in the committee report as the
23 fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule
24 Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206-02(c)(3)).

Sec. 27. This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.